

## Message Text

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ACTION EB-11

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-11 RSC-01 IO-14

ISO-00 OMB-01 TAR-02 SPC-03 AGR-20 AID-20 CIAE-00

COME-00 INR-10 LAB-06 NSAE-00 OIC-04 SIL-01 STR-08

TRSE-00 CIEP-02 CEA-02 PA-04 PRS-01 USIA-15 SAM-01

NSC-10 L-03 H-03 COA-02 INT-08 DRC-01 DLOS-06 /233 W  
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R 151555Z FEB 74

FM USMISSION GENEVA

TO SECSTATE WASHDC 4028

INFO AMEMBASSY MEXICO

USMISSION USUN NEW YORK

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EO 11652: N/A

TAGS: EGEN, UNCTAD

SUBJ: UNCTAD: CHARTER OF ECONOMIC RIGHTS AND  
DUTIES OF STATES

1. SUB-GROUP II MET FEB 13 TO DEBATE PARAS 2 (PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES) AND PARA 10 (CONTROL OF FOREIGN INVESTMENT) WHICH HAD BEEN POSTPONED AS REQUIRING SUBSTANTIAL INFORMAL CONSULTATIONS BEFORE BEING AIRED IN OPEN MEETING. WHILE SEVERAL DELS TOOK STRONG LINE THAT CHARTER, IN ORDER TO BE PROGRESSIVE DOCUMENT, MUST GO BEYOND UNGA RES 1803, TONE OF DEBATE WAS CONCILIATORY AND CONSTRUCTIVE, WITH SEVERAL EXPRESSING WILLINGNESS SEEK LANGUAGE ACCEPTABLE TO ALL. AT CONCLUSION IT WAS AGREED THAT INFORMAL CONSULTATIONS WOULD CONTINUE WITH ASSISTANCE OF SUB-GROUP CHAIRMAN (BRILLANTES, PHILIPPINES) AND WORKING GROUP CHAIRMAN (CASTANEDA, MEXICO) AND SUCH CONSULTATIONS ARE CONTINUING ON DAILY BASIS.

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2. FR GERMANY DEL IN NAME OF MEMBERS OF EC PUT FORWARD

PROPOSAL BASED ON PREVIOUS UK SUBMISSION AND INCLUDING LANGUAGE REPORTED GENEVA 703. HE BRIEFLY STATED POSITION THAT EXERCISE OF SOVEREIGNTY OVER NATURAL RESOURCES SHOULD BE CONDUCTED WITHIN INTERNATIONAL LAW, POINTING OUT THAT CONCEPT OF SOVEREIGNTY IS TEMPERED BY INTERDEPENDENCE AND THAT TENSION BETWEEN THE TWO IS ONE OF CHARACTERISTICS OF MODERN WORLD.

3. US DEL NOTED IMPORTANCE TO US OF SUBJECT OF SOVEREIGNTY OVER NATURAL RESOURCES IN CONTEXT OF BALANCED, FORWARD-LOOKING CHARTER AND IN PARTICULAR STATED STRONG SUPPORT FOR PARA 3 (ON INTERDEPENDENCE) OF EUROPEAN DRAFT. HE STRESSED IMPORTANCE OF UNGA RES 1803 AS EFFECTIVE, NOT MERELY NOMINAL, COMPROMISE ON SUBJECT OF PERMANENT SOVEREIGNTY, EXPRESSED HOPE FOR RESOLUTION OF ISSUE IN CHARTER CONTEXT BASED ON SPIRIT OF COMPROMISE EVIDENCED IN UNGA 1803 AND CALLED FOR SUPPORT BY ALL FOR RULE OF LAW, WHICH TENDS PROTECT THE WEAK EVEN MORE THAN THE STRONG.

4. CANADIAN DEL, SUPPORTED BY AUSTRALIA, EXPRESSED VIEW THAT SO FAR AS POSSIBLE EACH PARAGRAPH SHOULD CONTAIN BALANCE BETWEEN RIGHTS AND DUTIES AND THAT, WHILE THEY NOT WEDDED TO PARTICULAR TEXT, EUROPEAN DRAFT HAD ADVANTAGE OF SETTING LIMITS TO ARBITRARY EXERCISE OF SOVEREIGN POWER.

5. SPEAKERS FROM GROUP OF 77 (IRAQ, YUGOSLAVIA, KENYA, MEXICO, PERU, CHILE, BRAZIL, INDIA AND SRI LANKA) SUPPORTED FOLLOWING LANGUAGE, BASED ON FORMER PERUVIAN PROPOSAL, SUBMITTED BY IRAQ AND YUGOSLAVIA:

QUOTE

(A) EACH STATE HAS THE INALIENABLE RIGHT TO THE FULL EXERCISE OF ITS PERMANENT SOVEREIGNTY OVER ITS WEALTH AND NATURAL RESOURCES AND ACCORDINGLY HAS THE RIGHT FREELY AND FULLY TO DISPOSE OF THEM. THIS RIGHT INCLUDES THE APPLICATION OF NATIONALIZATION AS AN LIMITED OFFICIAL USE  
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EXPRESSION OF THE STATE'S SOVEREIGNTY IN ORDER TO SAFEGUARD ITS NATURAL WEALTH AND RESOURCES.

NATIONALIZATION IMPLIES THAT EACH STATE IS ENTITLED TO DETERMINE THE AMOUNT OF APPROPRIATE COMPENSATION AND THE MODE OF PAYMENT; AND THAT ANY DISPUTE WHICH MIGHT ARISE SHALL BE SETTLED IN ACCORDANCE WITH THE NATIONAL LEGISLATION OF EACH STATE CARRYING-OUT SUCH MEASURES, AND BY THEIR TRIBUNALS.

(B) THE ABOVE-MENTIONED RIGHT COVERS ALL NATURAL WEALTH AND RESOURCES OF THE STATES ON LAND, SEA AND

CONTINENTAL SHELF WITHIN THE LIMITS OF THEIR NATIONAL JURISDICTION.

(C) ANY ACTION DIRECTED AGAINST THIS RIGHT SHALL BE CONSIDERED A VIOLATION OF THE PRINCIPLES OF THE UNITED NATIONS, AND COULD CONSTITUTE A THREAT TO INTERNATIONAL PEACE AND SECURITY. UNQUOTE

6. OTHER POINTS MADE BY LDC SPEAKERS INCLUDED:

(A) INTERNATIONAL LAW IS EVOLVING AND THERE IS NEED FOR "STEP FORWARD" IN CURRENT DOCUMENT (IRAQ, PERU).

(B) YGO-IRAQI DRAFT (PARA 4 ABOVE IS NEARER TO SPIRIT OF BOTH UNGA RESOLUTIONS 1803 AND 3171 AND IS BASED ON INTERNATIONAL LAW AS REFLECTED IN THESE RESOLUTIONS (YUGOSLAVIA, KENYA, CHILE).

7. MEXICO CALLED FOR END OF ANARCHY AND ESTABLISHMENT OF JURIDICAL STRUCTURE IN THIS FIELD AND SAID CHARTER CANNOT MERELY RESTATE PAST PRACTICE, AND THAT "ONE SHOULDN'T TALK ABOUT CUSTOMARY LAW IN THIS AREA." HE REFERRED TO VOTE ON UNGA RES 3171 (108-1-16, PREVIOUSLY CITED BY CHAIR) AS INDICATING DEVELOPMENT OF A TREND: "WHAT WE ARE DOING HERE IS DEVELOPING A BASIC RIGHT IN INTERNATIONAL LAW--THE RIGHT OF DEVELOPMENT."

8. INDIAN DEL, NOTING GROUP B SPEAKERS HAD CALLED FOR BALANCE IN PARA 2, SAID BALANCE MUST BE FOUND RATHER IN CHARTER AS A WHOLE AND THAT FACTORS BALANCING THE CREATION OF A RIGHT OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES INCLUDED DUTY TO MAKE SUCH RESOURCES AVAILABLE FOR GOOD OF MANKIND, TERMS OF TRADE, ACCESS LIMITED OFFICIAL USE  
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TO MARKETS, AVAILABILITY OF TECHNOLOGY AND CAPITAL. CONCEPT OF BALANCED INTERDEPENDENCE AS FOUND IN LAST PARA OF EUROPEAN PROPOSAL SHOULD NOT BE LIMITED TO NATURAL RESOURCES, HE SAID, BUT SHOULD APPLY TO ALL AREAS HE CITED AND SHOULD BE TAKEN UP ON CHAPEAU" OF CHARTER.

9. IN BRIEF LOW-KEY EXCHANGE, VIET NAM PUT FORWARD AN AMENDMENT CALLING FOR THE RETURN OF NATIONAL OR MARINE RESOURCES TAKEN OVER BY FORCE; CHINA RESERVED RIGHT TO REPLY AT SOME FUTURE TIME (SEE SEPTTEL). DALE

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